



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153756

PRELIMINARY RECITALS

Pursuant to a petition filed November 29, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly calculated Petitioner's FoodShare allotment for October 2013 forward.

NOTE: The record was held open until January 16, 2013, to allow the Petitioner to submit information concerning his medical expenses. On January 13, 2013, the Petitioner submitted a copy of a money order, bills from [REDACTED] and an itemization of prescription costs from [REDACTED]. They have been marked collectively as Exhibit 3 and entered into the record. On January 16, 2013, the agency submitted a response indicating that it was applying Petitioner's medical expenses to his FoodShare budget for February 2014, which will result in an allotment of \$140.00 per month for February 2014 onward. The response has been marked as Exhibit 4 and entered into the record.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Yia Xiong, Income Maintenance Specialist II
Milwaukee Enrollment Services
1220 W Vliet St, Room 106

Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 30, 2013, the agency sent the Petitioner a notice indicating that his September 27, 2013 application for FoodShare benefits was approved and that he would be receiving FoodShare benefits in the amount of \$39 per month beginning October 1, 2013. (Exhibit 2, pgs. 22 and 23)
3. On October 7, 2013, the agency sent Petitioner a notice indicating that effective November 1, 2013, his FoodShare benefits would be decreased from \$39.00 to \$28.00 per month due to the expiration of the American Recovery and Reinvestment Act (ARRA) of 2009. (Exhibit 2, pgs. 27-32)
4. Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on November 29, 2013. (Exhibit 1)
5. In October 2013, Petitioner received \$1535.90 in social Security Retirement Income, but had \$104.90 deducted for Medicare Part B premiums. (Exhibit 2, pgs. 12 and 20; Testimony of Petitioner)
6. Petitioner pays a mortgage of \$937 per month and pays for homeowner's insurance in the amount of \$50 per month, so his housing expense is $\$937 + \$50 = \$987$. (Testimony of Petitioner; Exhibit 2, pg. 24)
7. Petitioner lives alone and is considered elderly for FoodShare purposes (over age 60). (Testimony of Petitioner)
8. Petitioner underwent an MRI on August 7, 2013, for which he owes \$751.90 and is paying \$75.00 per month. (Exhibit 3, pg. 2)
9. Petitioner underwent electrocardiograms on October 12 and October 13, 2013, for which he owes \$102.00. (Exhibit 3)
10. In January 2014, Petitioner paid a total of \$402.00 for his prescriptions. (Exhibit 3, pgs. 4-6)
11. On January 12, 2014, Petitioner paid \$132.30 for supplemental insurance through AARP. (Exhibit 3, pg. 1)
12. Petitioner did not report the foregoing medical expenses when he applied for benefits in September 2013. (Exhibit 2, pg. 24; testimony of Mr. Xiong)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. 7 *Code of Federal Regulations (CFR)*, §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FS household, including all earned and unearned income. 7

CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

(1) a standard deduction –

This was \$149 per month for a household of 1-3 people during part of the time in question, but effective October 1, 2013, was changed to \$152 per month, 7 *CFR § 273.9(d)(1)*:

(2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR § 273.9(d)(2)*;

(3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR § 273.9(d)(3)*;

(4) dependent care deduction for child care expenses, 7 *CFR § 273.9(d)(4)*; and

(5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR § 273.9(d)(5)*.

During part of the time in question, the heating standard utility allowance (HSUA) was \$442, but Effective October 1, 2013, it was changed to \$450 per month.

During part of the time in question there was a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2013, it was changed for \$478 per month.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

It should be noted that when Petitioner applied for benefits in September 2013, he did not report any medical expenses, beyond his Medicare Part B deductible of 104.90. Consequently, the Petitioner’s excess medical expense deduction worked out to be \$104.90 - \$35.00 = \$69.90.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective October 1, 2013:

Gross Income	\$1535.90	Mortgage/Insurance	\$987.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$657.00
Medical Expenses exceeding \$35	-\$69.90		
No Dependent Care Expenses		Excess Shelter Expense	\$780.00
<hr/>			
Net Income	\$1314.00		
Excess Shelter Expense	- \$780.00		
<hr/>			
Total Net Income	\$534.00		

Effective October 1, 2013, individuals in a household of one, with a net income of \$534.00, qualified for a FoodShare allotment of \$39.00 per month. *FSH §8.1.2*. As of November 1, 2013, individuals in a household of one, with a net income of \$534.00, qualified for a FoodShare allotment of \$28.00 per month, due to the expiration of the American Recovery Reinvestment Act of 2009. *Id.* Thus, the agency correctly calculated Petitioner's FoodShare allotment in October 2013 and for November 2013 forward.

If Petitioner needs additional assistance obtaining food, there is a list of food pantries that can be found at http://www.needhelppayingbills.com/html/milwaukee_food_pantries.html and at <http://www.foodpantries.org/ci/wi-milwaukee>. In addition, Petitioner might receive additional information from the Hunger Task Force: (414) 777-0483 or Feeding America (Formerly Second Harvest): (414) 931-7400.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's FoodShare allotment for October 2013 forward.

THEREFORE, it is **ORDERED**

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

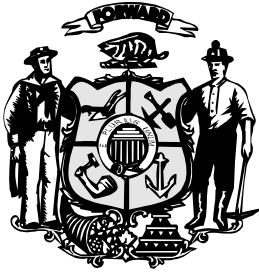
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of
Milwaukee, Wisconsin, this 17th day of
January, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 17, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability